

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA
Montana Thirteenth Judicial District Court, County of Yellowstone

STATE OF MONTANA,)	
)	
Plaintiff,)	CAUSE NO. DC-16-1138
)	
-vs-)	
)	DECISION
ROSE OF SHARON NOMEЕ,)	
)	
Defendant.)	

On January 2, 2019, Defendant's suspended sentence was revoked and she was sentenced to the Department of Corrections for two (2) years and two hundred ninety-five (295) days. The District Court recommended she be screened for placement in Passages Alcohol and Drug Treatment program. The Court further recommended that she be screened for any and all Drug Treatment Courts following discharge from her Department of Corrections sentence. Defendant received credit for elapsed time while not incarcerated from June 5, 2017 through August 3, 2017. In addition, she received credit for time served from July 19, 2018 through August 1, 2018 and December 10, 2018 through January 2, 2019.

On April 5, 2019, Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). Defendant appeared by video conferencing from the Jefferson County courthouse with staff from the Elkhorn Treatment Center. She was represented by Brent Getty of the Office of the State Public Defender. The State was not represented.

Before hearing the Application, Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. Defendant was further advised that there is no appeal from a decision of the Division. Defendant acknowledged that she understood this and stated that she wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

It is the unanimous decision of the Division that the sentence imposed is clearly excessive and the sentence should be **MODIFIED**. The reason the Division considers the sentence excessive in that it recommends a condition beyond her termination of sentence, to wit "It is further recommended the Defendant be screened for any and all Drug Treatment Courts following the discharge from her Department of Corrections sentence" (Order of Revocation and Imposition of Sentence done in open court on January 2, 2019). **Therefore, the recommendation for Treatment Court following the discharge from her Department of Corrections sentence is stricken from the Order of Revocation and Imposition of Sentence.** The remaining terms and conditions of the sentence imposed are not clearly inadequate or clearly excessive and are affirmed.

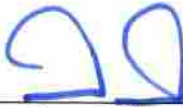
Done in open Court this 5th day of April, 2019.

DATED this 25th day of April, 2019.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



Hon. Dan Wilson, Member



Hon. Luke Berger, Member

CERTIFICATE OF MAILING

I, Georgia Lovelady, Judicial Assistant of the Sentence Review Division of the Montana Supreme Court, hereby certify that copies of the foregoing SENTENCE REVIEW DECISION were mailed this 7th day of May, 2019 to the following:

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Georgia Lovelady, Judicial Assistant
SENTENCE REVIEW DIVISION